

House Bill 469

By: Representative Martin of the 47th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the joint county and municipal sales and use tax, so as to change certain provisions
3 regarding procedures for certifying additional qualified municipalities; to provide an
4 effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the
8 joint county and municipal sales and use tax, is amended by revising Code Section 48-8-89.1,
9 relating to procedures for certifying additional qualified municipalities, as follows:
10 "48-8-89.1.

11 (a) If there exists within any special district in which the tax authorized by this article is
12 imposed a qualified municipality which was not a qualified municipality on the date of
13 filing with the commissioner of the most recently filed certificate under Code Section
14 48-8-89, such qualified municipality may request the commissioner to give notice of the
15 qualified municipality's existence as provided in this subsection. Upon receipt of such a
16 request, the commissioner shall, unless he determines that the requesting entity is not a
17 qualified municipality, within 30 days give written notice of the qualified municipality's
18 existence to the county which is conterminous with the special district in which the
19 qualified municipality is located and to each other qualified municipality within the special
20 district. Such written notice shall include the name of the new qualified municipality, the
21 effective date of the notice, and a statement of the provisions of this Code section.

22 (b) Within 60 days after the effective date of the notice referred to in subsection (a) of this
23 Code section, a new distribution certificate shall be filed with the commissioner for the
24 special district. This distribution certificate shall specify by percentage what portion of the
25 proceeds of the tax available for distribution within the special district shall be received by
26 the county in which the special district is located and by each qualified municipality

27 located wholly or partially within the special district, including the new qualified
28 municipality. No distribution certificate may contain a total of specified percentages in
29 excess of 100 percent.

30 (c) Except as otherwise provided in this subsection, a distribution certificate required by
31 this Code section must be executed by the governing authorities of the county within which
32 the special district is located and each qualified municipality located wholly or partially
33 within the special district, including the new qualified municipality. Notwithstanding the
34 fact that a certificate shall not contain an execution in behalf of one or more qualified
35 municipalities within the special district, if the combined total of the populations of all such
36 absent municipalities is less than one-half of the aggregate population of all qualified
37 municipalities located within the special district, the submitting political subdivisions shall,
38 in behalf of the absent municipalities, specify a percentage of that portion of the remaining
39 proceeds which each such municipality shall receive, which percentage shall not be less
40 than that proportion which each absent municipality's population bears to the total
41 population of all qualified municipalities within the special district multiplied by that
42 portion of the remaining proceeds which are received by all qualified municipalities within
43 the special district. For the purpose of determining the population of the absent
44 municipalities, only that portion of the population of each such municipality which is
45 located within the special district shall be computed.

46 (d) If a new certificate is not filed for any special district as required by this Code section,
47 the authority to impose the tax authorized by Code Section 48-8-82 within that special
48 district shall cease on the first day of January of the year following the year in which the
49 required distribution certificate could last have been timely filed. In any special district in
50 which the authority to impose the tax is terminated pursuant to this subsection, the tax may
51 thereafter be reimposed only pursuant to the procedures specified in Code Sections 48-8-84
52 through 48-8-86.

53 (e) If a new certificate is filed as required by this Code section, the commissioner shall
54 begin to distribute the proceeds as specified in the new certificate on the first day of
55 January of the first calendar year which begins more than 60 days after the effective date
56 of the notice referred to in subsection (b) of this Code section. The commissioner shall
57 continue to distribute the proceeds of the tax according to the new certificate until a
58 subsequent certificate is filed and becomes effective as provided in Code Section 48-8-89.

59 (f)(1) As used in this subsection, the term:

60 (A) 'New qualified municipality' means a municipal corporation which has been
61 chartered by local Act since the date of filing with the commissioner of the most
62 recently filed certificate under Code Section 48-8-89 within a county which has a
63 special district for the provision of local government services consisting of the

64 unincorporated area of the county where the population of the unincorporated area of
65 the county, after removal of the population of the new municipality from the
66 unincorporated area, constitutes less than 20 percent of the population of the county
67 according to the most recent decennial census.

68 (B) 'Newly expanded qualified municipality' means a municipal corporation which
69 since the date of filing with the commissioner of the most recently filed certificate
70 under Code Section 48-8-89 has increased its population by more than 15 percent
71 through one or more annexations and is located in the same county as a new qualified
72 municipality.

73 (2) Notwithstanding any other provision of this Code section, if there exists within any
74 special district in which the tax authorized by this article is imposed a new qualified
75 municipality or a newly expanded qualified municipality or both, such qualified
76 municipality or municipalities may request the commissioner to give notice of the
77 qualified municipality's or municipalities' existence and status as a new qualified
78 municipality or newly expanded qualified municipality as provided in this subsection.
79 Upon receipt of such a request, the commissioner shall, unless he or she determines that
80 the requesting entity is not a new qualified municipality or newly expanded qualified
81 municipality, within 30 days give written notice of the qualified municipality's existence
82 and status to the county which is conterminous with the special district in which the
83 qualified municipality is located and to each other qualified municipality within the
84 special district. Such written notice shall include the name of the new qualified
85 municipality or newly expanded qualified municipality, the effective date of the notice,
86 and a statement of the provisions of this subsection.

87 (3) Within 60 days after the effective date of the notice referred to in paragraph (2) of
88 this subsection, a new distribution certificate shall be filed with the commissioner for the
89 special district. This distribution certificate shall address only the proceeds of the tax
90 available for distribution from the percentage allocated to the county in the current
91 distribution certificate and shall specify as a percentage of the total proceeds of the tax
92 what portion of the proceeds shall be received by the county in which the special district
93 is located and by the new qualified municipality and newly expanded qualified
94 municipality, if any.

95 (4) Except as otherwise provided in this paragraph, a distribution certificate required by
96 this subsection must be executed by the governing authorities of the county within which
97 the special district is located each new qualified municipality located wholly or partially
98 within the special district, and each newly expanded qualified municipality, if any. If a
99 new certificate is not filed within 60 days as required by paragraph (3) of this subsection,

100 the commissioner shall distribute the proceeds of the tax available for distribution from
101 the percentage allocated to the county in the current distribution certificate such that:

102 (A) The new qualified municipality receives an allocation equal on a per capita basis
103 to the average per capita allocation to the other qualified municipalities in the county
104 (according to population), to be expended as provided in paragraph (2) of subsection
105 (a) of Code Section 48-8-89; and

106 (B) Any newly expanded qualified municipality receives a total allocation of tax
107 proceeds (including any amount previously allocated) equal on a per capita basis to the
108 average per capita allocation to the other qualified municipalities in the county
109 (according to population), to be expended as provided in paragraph (2) of subsection
110 (a) of Code Section 48-8-89.

111 Every other qualified municipality shall continue to receive the share provided by the
112 existing distribution certificate or otherwise provided by law. The county shall receive
113 the remaining proceeds of the tax, to be expended as provided in paragraph (2) of
114 subsection (a) of Code Section 48-8-89. For the purpose of determining the population
115 of qualified municipalities, only that portion of the population of each such municipality
116 which is located within the special district shall be computed. For the purpose of
117 determining population under this Code section, all calculations of population shall be
118 according to the most recent decennial census, including the census data from such
119 census applicable to any annexed territory.

120 (5) The commissioner shall begin to distribute the proceeds as specified in the newly
121 filed certificate or, if such a certificate is not filed, as specified in paragraph (4) of this
122 subsection on the first day of the first month which begins more than 60 days after the
123 effective date of the notice referred to in paragraph (2) of this subsection. The
124 commissioner shall continue to distribute the proceeds of the tax according to the existing
125 certificate and the certificate applicable to the county and the new qualified municipality
126 or, if such a certificate is not filed, as specified in paragraph (4) of this subsection until
127 a subsequent certificate is filed and becomes effective as provided in Code Section
128 48-8-89."

129 **SECTION 2.**

130 This Act shall become effective upon its approval by the Governor or upon its becoming law
131 without such approval.

132 **SECTION 3.**

133 All laws and parts of laws in conflict with this Act are repealed.